IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 6324 OF 2005

Madhav Mutta Devadiga. ...Applicant
V/s.
State of Maharashtra (CBI). ...Respondent

Ms.Rita Kapur, Advocate as Amicus Curiae for Applicant.
Ms.M.M. Deshmukh, APP for the State.

CORAM : V.M. KANADE, J.

DATED : FEBRUARY 14, 2006

P.C. :-

. Heard learned Counsel for the applicant and learned Counsel for the respondent.

. This is an application filed by the applicant through jail. The applicant was arrested in connection with an offence punishable under the MCOC Act and is one of the accused in Abdul Telgi Stamp case which is pending in the trial Court. In this application it is alleged that on two occasions, the remand was illegally granted in this case and he was, therefore, illegally detained.

2. It is submitted that on one occasion, his

judicial custody was extended by the court clerk though he was not personally present and it is alleged that on 5th May, 2005, he was not produced before the trial Court to extend his judicial custody and therefore, the applicant is entitled to be released on bail. It is alleged that the applicant is an innocent Government Stamp Vendor and has been falsely involved in the case.

3. Learned APP for the respondent, on the other hand, submitted that there are five other accused who had sought bail on the same ground and the Division Bench of this Court after taking into consideration the same arguments which were advanced by five other accused, had rejected the said application in the case of **Dilip Pandurang Kamath & Ors. V/s. State of Maharashtra reported in 2005 ALL MR. (Cri) 3017.** He submitted that so far as his application on merits is concerned, the applicant has filed an application before the trial Court which is still pending and therefore, there is no substance in the application filed by the applicant.

4. The Division Bench of this Court in the case of **Dilip Pandurang Kamath and Ors.** has considered the very same issue and the contention was raised by five other accused has been rejected. The ratio of the judgment is clearly applicable to the facts of the present case. So far as the application of the applicant on merits is concerned, since the Sessions Court has not yet decided his application, the applicant cannot be permitted to agitate an application for bail on merits in this Court unless the Sessions Court decides his application.

5. Considering the fact that the applicant is in jail since last twenty-six months, in the interest of justice, it is essential that his application for bail should be decided, expeditiously, by the trial Court. The trial Court, therefore, is directed to decide his application within four weeks.

6. With these directions, the application is disposed of.

7. The Court would like to express gratitude to the

Counsel appearing on behalf of the applicant for assisting the Court as she has been appointed from the Amicus Curiae Panel and has appeared to assist the Court.

(V.M. KANADE, J,)